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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,064	03/26/2004	David B. Gill	3962 P 028	8082

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PAUL J. NYKAZA, ESQ.
WALLENSTEIN WAGNER & ROCKEY, LTD.
53RD FLOOR
311 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6630

EXAMINER	
LUGO, CARLOS	

ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/811,064	GILL, DAVID B.	
	Examiner	Art Unit	
	Carlos Lugo	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-5,7-19,23,25-36 and 38-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-5,7-19,23,25-36 and 38-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *attachments #1 and #2*.

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on March 23, 2006.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1,3-19,23,25-31,36,38-47 and 54 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,450,063 to Harvey et al (Harvey).

Regarding claims 1,16,18 and 19, Harvey discloses an operator for a rotatable spindle comprising a hub (20) having a receiver (29), adapted to connect to the spindle shaft, and an arm portion (32) extending from the receiver.

The operator further comprises a handle (10) having a base and a pair of sidewalls extending from the base so as to define a cavity (17). The base has a top and a bottom surface generally oppose to the top surface (see attachment #1).

A leaf spring (24) is connected to the handle and positioned between the sidewalls and having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm.

The handle is pivotally connected to the arm (at 21). The handle is pivotable between a closed position, wherein a portion of the receiver is positioned within the cavity (Figure 3), and an open position, wherein the receiver is substantially outboard of the cavity (Figure 2).

As to claim 3, Harvey discloses that the handle further comprises a knob (13) rotatably connected to the base.

As to claim 4, Harvey discloses that the receiver (29) has a bore adapted to receive a portion of the spindle.

As to claim 5, Harvey discloses that the leaf spring (24) retains the handle in the open position.

As to claim 7, Harvey discloses that the spring is a leaf spring positioned in spaced relationship from an engagement surface of a nose (at 27).

As to claims 8 and 17, Delman discloses that the operator further comprises a pin (21), wherein the pin pivotally connects the handle to the arm.

As to claim 9, Harvey discloses that the operator further comprises a leaf spring (24) in spaced relationship from a mating surface (27) and wherein the handle is moveable to a deployed position such that the leaf spring is brought into engagement with the mating surface.

As to claims 10,25 and 38-40, Harvey discloses that an intermediate position is defined between the closed position and the open position, wherein the arm (where 21 is located) flexes the leaf spring when the handle is in the intermediate position.

As to claims 11,26 and 44, Harvey discloses that the flexing of the leaf spring provides tension that supports the weight of the handle.

As to claim 12, Harvey discloses that the arm flexes the leaf spring (24) as the handle moves towards the open position to thereby provide a force of frictional engagement between the spring and the mating surface.

As to claim 13, Harvey discloses that the handle drops back to the closed position when the handle moves from the intermediate position to the closed position and the leaf spring is no longer engaged with the mating surface.

As to claims 14,15,29,30,41,42,46 and 47, Harvey illustrates that the leaf spring (24) is un-flexed when the handle is in the closed position and in the open position (Figures 2 and 3).

As to claim 23, Harvey discloses that the leaf spring confronts the arm as the handle is pivoted from the closed position to the open position, to maintain the handle in the open position (from Figures 3 to Figure 2).

As to claim 27, Harvey illustrates that the arm flexes the leaf spring in a second portion of the intermediate position as the handle moves towards the closed position providing tension that supports the weight of the handle.

As to claims 28 and 45, Harvey illustrates that the handle snaps into the open position when the handle moves from the intermediate position to the open position.

As to claim 31, Harvey discloses a fold down operator comprising a hub (20) having a receiver (29) adapted to connect to a spindle and an arm (32) extending from the receiver; a handle (10) having a base and a pair of sidewalls extending from the base, wherein the base and sidewalls define a cavity; the base has a top and a bottom surface generally oppose to the top surface (see attachment #1); a leaf spring (24) is connected to the handle and positioned between the sidewalls and having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm; and a pin (21) pivotally connecting the handle to the

arm, wherein the handle is pivotable between a closed position wherein a portion of the receiver is positioned within the cavity, and an open position, wherein the receiver is outboard of the cavity.

As to claim 36, Harvey illustrates that the handle has a first end and a second end, wherein the handle has a knob (13) rotatably connected to the second end.

As to claim 43, Harvey discloses a fold down operator comprising a hub (20) having a receiver (29) adapted to connect to the spindle and an arm (32).

A handle (10) pivotally connected to the arm; the handle having a base and a pair of sidewalls defining a cavity. The base has a top and a bottom surface generally oppose to the top surface (see attachment #1). The base also has a peg (30) extending into the cavity and each sidewall includes a slot (see attachment #2).

A leaf spring (24) is connected to the handle and confronting the arm. The leaf spring having a hole (26), wherein the hole receives the peg while the spring is received into the slots. The leaf spring has a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm.

The handle is movable between a closed position and an open position, an intermediate position defined between the closed position and the open position, wherein the arm flexes the leaf spring when the handle is in the intermediate position.

As to claim 54, Harvey discloses an operator for a rotatable spindle comprising a hub (20) having a receiver (29), adapted to connect to the spindle shaft, and an arm portion (32) extending from the receiver.

The operator further comprises a handle (10) having a base and a pair of sidewalls extending from the base so as to define a cavity (17). The base has a top and a bottom surface generally oppose to the top surface (see attachment #1). Each sidewall includes a slot (see attachment #2).

Also, the operator comprises a pin (21) pivotally connecting the handle to the arm and a leaf spring (24) is connected to the handle and positioned between the sidewalls and having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm.

The handle is pivotally connected to the arm (at 21). The handle is pivotable between a closed position, wherein a portion of the receiver is positioned within the cavity (Figure 3), and an open position, wherein the receiver is substantially outboard of the cavity (Figure 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claim 32-35, as applied to claim 31 above, and claims 48-53 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,450,063 to Harvey et al (Harvey) in view of US Design Pat No D497,304 to Stoll et al (Stoll).

As to claims 32-35 and 48-50, Harvey fails to disclose that the operator comprises a cover that includes an outer recess that receives the knob of the handle.

Stoll teaches that it is well known in the art to provide a cover member with a recess that will receive the knob portion of a handle. The knob has a terminal end surface that is exposed at the open terminal end of the cover recess and at least a portion of the knob extends outward of the cover recess when the handle is in the storage configuration (Figures 1-8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the operator described by Harvey with a cover having a recess, as taught by Stoll, in order protect the interior of the assembly and to secure the handle at the rest position.

As to claim 51, Harvey discloses that the handle has a cavity positioned adjacent the connection to the arm, and a spring member (24) positioned within the cavity to engage a surface of the arm when the handle is moved between use and storage configurations.

As to claim 52, Harvey discloses that the spring member is a leaf spring positioned relative the arm to engage a protruding terminal end of the arm.

As to claim 53, Harvey discloses that the protruding end of the arm comprises a body portion having a terminal end surface and a thickness between the terminal end surface and the hinge axis being greater than a thickness between an adjacent surface and the hinge axis.

Response to Arguments

6. Applicant's arguments filed on March 23, 2006 have been fully considered but they are not persuasive.

The current amendment overcomes the previous rejection of the claims in view of Delman, therefore, the rejection in view of Delman is withdrawn since Delman fails to disclose that the leaf spring is positioned between the sidewalls and having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm.

As to the arguments presented by the applicant that Harvey fails to disclose that the leaf spring is positioned between the sidewalls and having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm (Page 11 Line 26), Harvey clearly discloses and illustrate this limitation (see attachments #1 and #2). Therefore, the rejection of the claims in view of Harvey is maintained.

As to the applicant's arguments that the examiner has failed to provide or establish obviousness in order to combine the teachings of Stoll into the device described by Harvey (Page 13 Line 5), the argument is not persuasive.

First, a conclusion of obviousness may be made from common knowledge and common sense of the person of ordinary skill without any specific hint or suggestion in a particular reference.

Second, providing the teaching of a cover member that has a recess that will receive the knob portion of a handle, as taught by Stoll, into a device like the one described by Harvey, will allow the an ordinary skill of the art to secure the handle at the rest position. The rejection is maintained.

Conclusion

7. Applicant's amendment, that the leaf spring is positioned between the sidewalls and having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

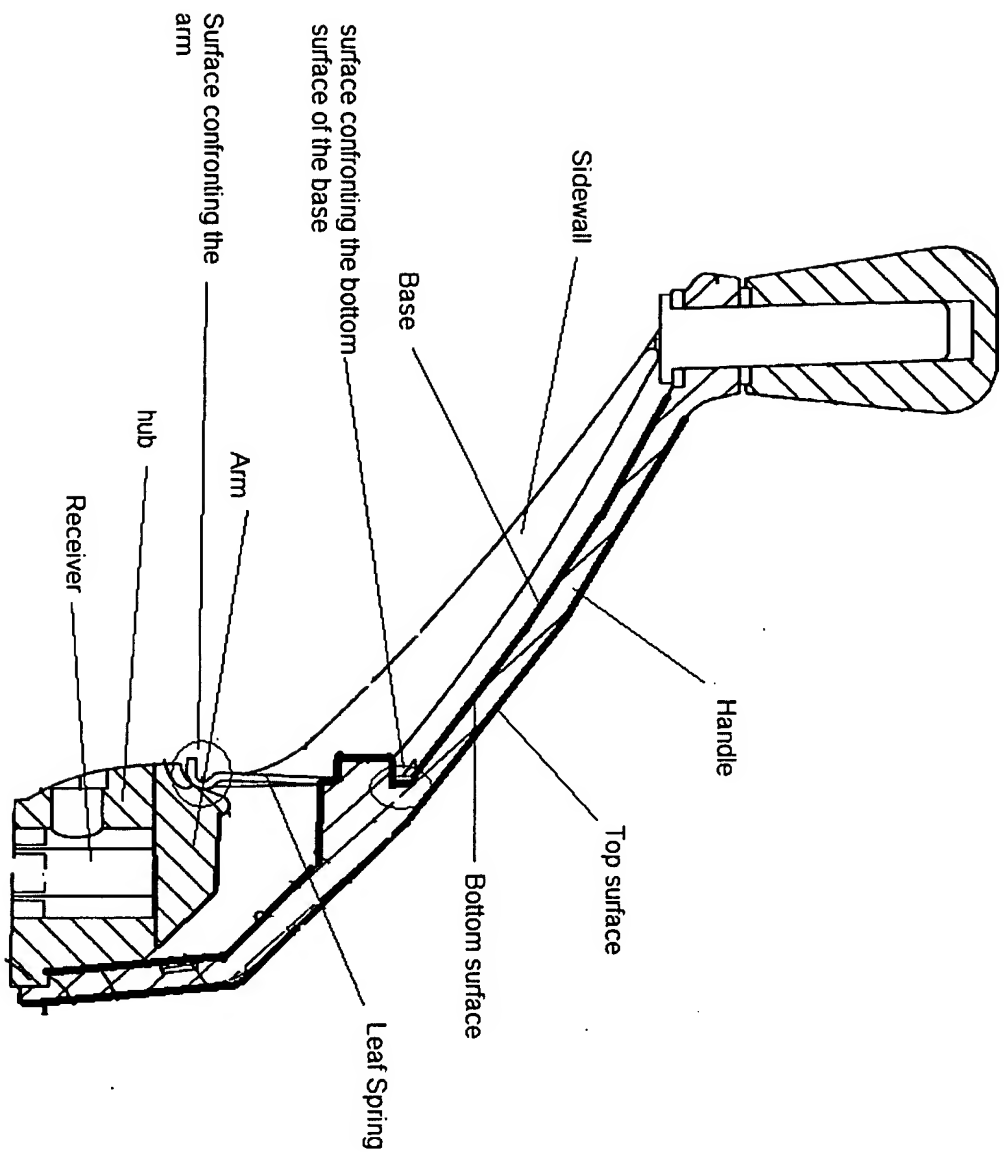
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

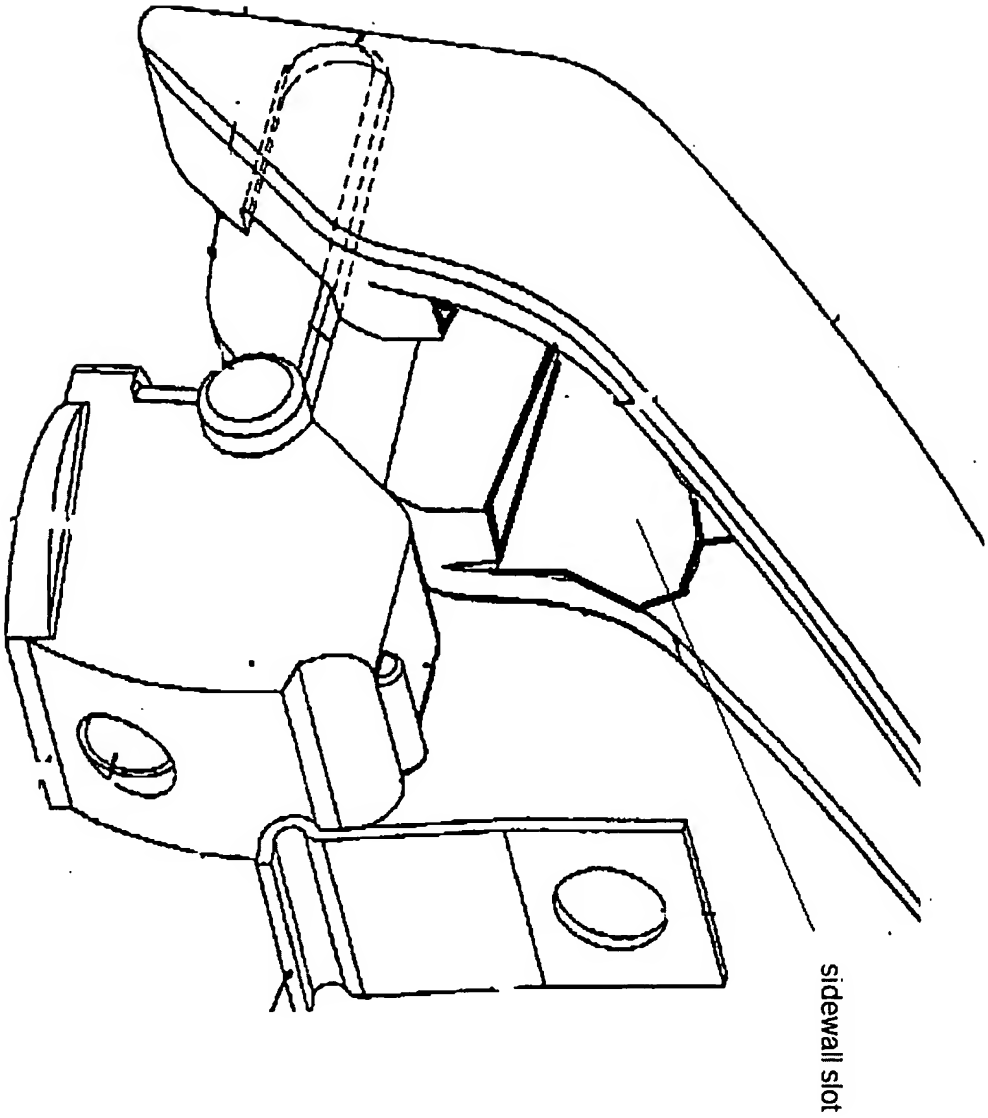
C.L.

Carlos Lugo
Patent Examiner AU 3676
May 1, 2006.

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER



Attachment #1



Attachment #2